THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20608 of 2006

Dated: 29-09-2006

Between:

Bogala Obulu Reddy.

..... PETITIONER

AND

The Superintendent of Police, Nellore and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.20608 of 2006

ORDER:

The petitioner is resident of Nellore town. He lodged a complaint with respondent No.2 on 20-09-2006 against M/s V. Venkatasubramanyam, B. Guravareddy, Munna Muralimohan, Anantha Bala Subramanyam, M. Srinivasulu Reddy and Srinivasulu alleging offences against them. The petitioner also sent a copy thereof to respondent No.1. As the same is not registered as cognizable offence/F.I.R. under Section 154(1) of the Code of Criminal Procedure, 1973 (Cr.P.C.), the present writ petition is filed seeking a direction to the respondents to register the crime.

The learned Assistant Government Pleader for Home opposed the writ petition placing reliance on the recent judgment of the Supreme Court in **Hari Singh v. The State of U.P.**[1], wherein the Supreme Court observed as under.

> When the information is laid with the police, but no action in that behalf is taken, the complainant can under Section 190 read with Section 200 of the Code lay the complaint before the Magistrate having jurisdiction to take cognizance of the offence and the Magistrate is required to enquire into the complaint as provided in Chapter XV of the Code. In case the Magistrate after recording evidence finds a *prima facie* case, instead of issuing process to the accused, he is empowered to direct the police concerned to investigate into offence under Chapter XII of the Code and to submit a report. If he finds that the complaint does not disclose any offence to take further action, he is empowered to dismiss the complaint under Section 203 of the Code. In case he finds that the complaint/evidence recorded *prima facie* discloses an offence, he is empowered to take cognizance of the offence and would issue process to the accused. These aspects have been highlighted by this Court in All India Institute of Medical Sciences Employees' Union (Reg) through its President v. Union of India and Others [(1996) 11 SCC 582]. It was specifically observed that a writ petition in such cases is not to be entertained.

After perusing the judgment of the Supreme Court cited by the learned Assistant Government Pleader for Home, this Court is not able to accept the contention of the learned Assistant Government Pleader that even before the Station House Officer (SHO), incharge of the Police Station, refuses to register a crime, the person can seek remedy of filing a private complaint under Section 199 read with Section 200 Cr.P.C. Section 154(3) Cr.P.C. enables the complainant to approach the Superintendent of Police whenever a complaint is not registered by the

SHO as a cognizable offence. The petitioner has approached the respondents and therefore, respondent No.1 may consider the complaint/representation made by the petitioner and issue necessary directions to respondent No.2. If the crime is not registered, it is then open to the petitioner to file a private complaint under Section 199/Section 200 Cr.P.C. and respondent No.1 may consider the same and pass appropriate orders within a period of two weeks thereafter.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

29th September, 2006

ghn

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[1] 2006(5) Supreme 513